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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,038	02/09/2001	Jeff Nodorft	0-11A	1599
34431	7590	12/29/2005	EXAMINER	
HANLEY, FLIGHT & ZIMMERMAN, LLC			LUGO, CARLOS	
20 N. WACKER DRIVE			ART UNIT	
SUITE 4220			PAPER NUMBER	
CHICAGO, IL 60606			3676	

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/781,038	Applicant(s) NODORFT, JEFF	
	Examiner Carlos Lugo	Art Unit 3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-13,15,19-38,40-42,46-50,52-56 and 61-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,5,7,11-13,15,21-23,25-27,34-38,40,46,48-50,52-56 and 62-64 is/are rejected.
- 7) ☒ Claim(s) 3,8-10,19,20,24,28-33,41,42,47,61 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>attachments #1 and #2</u> . |

DETAILED ACTION


1. This Office Action is in response to applicant's appeal brief filed on November 10, 2005.

In view of the appeal brief filed on November 10, 2005, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below: 

Brian Glessner, SPE AU 3676.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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(b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,4,5,7,11-13,15,22,23,25-27,35-38,40,46,48-50,52,54-56 and 62-64 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat No 2,703,247 to Wolf et al (Wolf).

Regarding claims 1,22 and 23, Wolf discloses a door latching system comprising a latch assembly (76,78 and 78) being moveable from a maintained release position to a door blocking position in response to movement of the door.

The latch assembly is able to remain in the maintained release position to allow at least one door panel to travel past the latch assembly, and in response to further movement of the door panels, the latch assembly subsequently moves to the door blocking position to obstruct closing movement of the plurality of door panels.

A traveling member (126) is mounted to the door panel such that the traveling member is able to engage the latch member as the plurality of door panels move from a closed to an open position (Figure 5). The traveling member engages the latch assembly and mechanically moves the latch assembly from the maintained release position to the door blocking position.

As to claims 4,5,25,26,48 and 49, Wolf discloses that the system further includes a releasing member (102 and 106) coupled to the latch assembly to move the latch assembly from the door blocking position to the maintained release position upon manual manipulation of the release member (by 124).

As to claims 7 and 27, Wolf discloses that the latch assembly further includes a latch member (88) that moves substantially linearly between the maintained release position and the door blocking position.

As to claims 11-13, Wolf discloses that the system further includes an actuating member (102 and 106) that moves the latch assembly between the door blocking position and the maintained release position (by 124).

As to claim 15, Wolf discloses that the latching system further includes a sensing member (at 92).

As to claims 35-37, wolf discloses a method of operating a sectional door.

As to claims 38,40,46,54 and 55, Wolf discloses a door latching system comprising a latch assembly (76,78 and 78) being moveable from a maintained release position to a door blocking position in response to movement of the door.

The latch assembly is able to remain in the maintained release position to allow at least one door panel to travel past the latch assembly, and in response to further movement of the door panels, the latch assembly subsequently moves to the door blocking position to obstruct closing movement of the plurality of door panels.

The system further includes a sensing member (at 92) and an actuating member (102 and 106).

A traveling member (126) is mounted to the door panel such that the traveling member is able to engage the latch member as the plurality of door panels move from a closed to an open position (Figure 5). The traveling member engages the

latch assembly and mechanically moves the latch assembly from the maintained release position to the door blocking position.

As to claims 50 and 52, Wolf discloses that the latch member (88) moves in response to the movement of the sensing member (92).

As to claim 56, Wolf discloses a method of operating a sectional door comprising the steps of:

a) sensing that the plurality of door panels have reached the open position in response to a traveling member engaging the latch assembly as the plurality of door panels move from the closed position to the open position.

b) mechanically actuating the latch assembly such that the latch assembly mechanically moves from the maintained release position to the door-blocking position upon sensing that the plurality of door panels have reached the open position; and

c) latching the sectional door upon actuating the latch assembly, whereby the latch assembly inhibits the plurality of door panels from moving from the open position to the closed position.

As to claim 62, Wolf discloses that the method further comprises the step of releasing the sectional door after the step of latching the sectional door, whereby the plurality of door panels are subsequently allowed to move from the open position to the closed position.

As to claim 63, Wolf discloses that the movement of the plurality of door panels from the closed position to the open position provides a motive force for actuating the latch assembly.

As to claim 64, Wolf discloses that the method includes the step of maintaining the latch assembly in the release position until the sensing step.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 21,34, and 53 are rejected** under 35 U.S.C. 103(a) as being unpatentable over US Pat No 2,703,247 to Wolf et al (Wolf) in view of US Pat No 5,271,448 to Delgado.

Wolf fails to disclose that the traveling member will engage a latch assembly while the door panels are moving to the closed position to inhibit the door panels from moving to the open position.

Delgado teaches that it is well known in the art to have a door latching system that includes a traveling member (76) mounted at the last of the door panels so that when the door panels moves into the closed position, the traveling member will engage a latch assembly (60) to inhibit the door panels from moving to the open position.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device described by Wolf with a latch assembly, as taught by Delgado, in order to inhibit the door from moving to the open position.

Allowable Subject Matter

6. **Claims 3,8,19,24,28,33,41,42,47 and 61** objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 9,10,20,29-32 would be allowed because the claims depend from claim 8,19,28.

Response to Arguments

7. Applicant's arguments filed on November 10, 2005 have been fully considered but they are not persuasive.

The applicant argues that Wolf fails to disclose the invention as claimed in claim 1, specifically that a door latching system having a latch assembly "moveable from a maintained release position to a door blocking position" and that the latch assembly is able to "remain in the maintained release position to allow at least some of the plurality of door panels to travel past the latch assembly". Further, the applicant argues that Wolf fails to disclose that in response to further movement of the door panels, "the latch assembly subsequently moves to the door blocking position" to hold the door open. Finally the applicant argues that Wolf fails to disclose "the traveling member engages the latch assembly to mechanically move the latch assembly from the maintained release position to the door blocking position" (Page 5 Line 15).

Wolf discloses a door latching system comprising a latch assembly (76,78 and 88) being moveable from a maintained release position (shown in Figure 1) to a door blocking position in response to movement of the door (shown in Figure 5).

The latch assembly remain in the maintained release position to allow at least one door panel to travel past the latch assembly, and in response to further movement of the door panels, the latch assembly subsequently moves to the door blocking position to obstruct closing movement of the plurality of door panels.

As seen in Figure 1, Wolf illustrates the latch assembly (76,78 and 88) at the maintained release position. When the door panels (24) moves up, the latch assembly allows the door panels (24) to travel past the latch assembly.

A traveling member (102) is located at the bottom of the last door panel. When the last door panel passes through the latch assembly, the traveling member moves and engages the front part of the latch assembly so as to move the latch assembly upwardly. A spring member (120) will bias the latch downwardly so as to capture the traveling member in one of the engagements of the latch, as seen in Figure 5. When the latch assembly engages the traveling member, the latch is at a door blocking position.

The latch assembly only moves in response to the engagement with the traveling member or by pulling a cord (124).

The applicant further argues that Wolf discloses that when the traveling member (126) engages the latch (88), the latch moves back and forward, by means of the spring (120), from the maintained release position to the door blocking position.

As stated before, Wolf illustrates the maintained release position in Figure 1 and the door blocking position at Figure 5.

The examiner has provide enlarged views of Figures 1 and 5 as attachments #1 and #2. As seen in attachment #1, the latch member, at the maintained release position, is located inside the curved portion (36) of a track (30). As seen in attachment #2, the latch member, at the blocking position, is located outside the curved portion. Wolf discloses that this is the first blocking position. IF and only IF the door has sufficient momentum when is moved in an upwardly direction, the traveling member can reach a farthest blocking position.

As seen in the attachment #2, the latch (88) will move up and down, but never to the maintained release position, where the latch (88) is located inside the channel. Therefore, Wolf clearly discloses and illustrates that the latch assembly moves between a maintained release position (Figure 1) and a door blocking position (Figure 5).

The applicant further argues that because the previous examiner allow the claims previously, the current examiner should give full faith or credit to the search and action made by the previous examiner (page 8line 10). The examiner of record verified that the previous, junior examiner, made the correct search, and examine all the cited prior art at the instant. Further, the current examiner verifies the previous actions and arguments presented during the prosecution. When the current examiner saw the "arguments" with respect to the rejection in view of Wolf (page 12 line 8 to page 13 line 10 of remarks filed on July 18, 2003) and study the Wolf patent, the

examiner of record notice that an error was made, therefore, the rejection in view of Wolf was reinstated. And as stated above, the examiner has prove that Wolf disclose the invention as claimed.

As to claims 23 and 35, the applicant presents the same arguments presented before to claim 1 in view of Wolf, therefore, since the examiner has prove that Wolf discloses the invention as claimed, the arguments are not persuasive.

As to claim 38, the applicant argues that Wolf fails to disclose a maintained release position. As stated before, Wolf discloses and illustrates a maintained release position (see attachment #1).

Further, the applicant argues that Wolf fails to disclose that the traveling member engages the sensing member as the door moves from the closed position to the open position that mechanically moves the latch member from the maintained release position to the door blocking position.

Wolf discloses a sensing member (the tip 92) and an actuating member (102 and 106). The traveling member (126) will engage the sensing member (92) as the door moves from the closed position to the open position that mechanically moves the latch member from the maintained release position to the door blocking position (as seen in attachment #2).

The applicant argues that is the spring (120), and not the engagement of the traveling member (126) with the sensing member (92), the one that moves the latch. The applicant interpretation is wrong. As seen in Figure 5, the traveling member 126 will strike against the tip 92 so as to move the latch 88 upwardly from the maintained

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release position, presented in Figure 1. If, and only if, the door has sufficient momentum when is moved in an upwardly direction, the traveling member can reach a farthest blocking position. This is accomplished by the spring 120, that when the traveling member 126 continues to move, the latch will be moving up and down to a certain position by means of the spring 120. Therefore, the applicant's arguments are not persuasive.

As to claims 21,34, and 53, the claims were rejected in view of Wolf, as modified by Moler, the arguments are persuasive and the rejection has been withdrawn. However, after further search and consideration, a new rejection to claims 21,34,53,56 and 62-64 has been made on record in view of Wolf, as modified by Delgado.

As to claims 56 and 62-64, the claims were previously rejected in view of Wolf, as modified by Moler. However, after further consideration, Wolf discloses the method as claimed in claims 56 and 62-64, therefore, the claims were rejected under 35 U.S.C. 102(b) in view of Wolf.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number

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for the organization where this application or proceeding is assigned is 571-272-7049.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

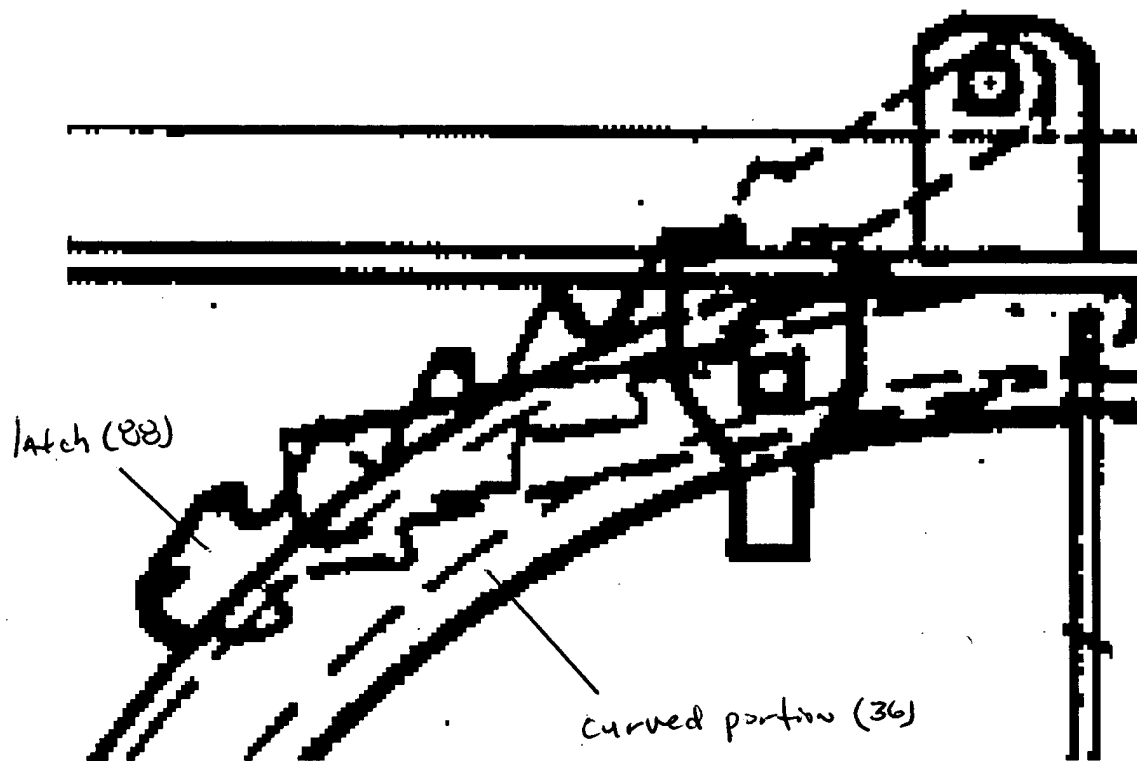
C.L.

Carlos Lugo
AU 3676

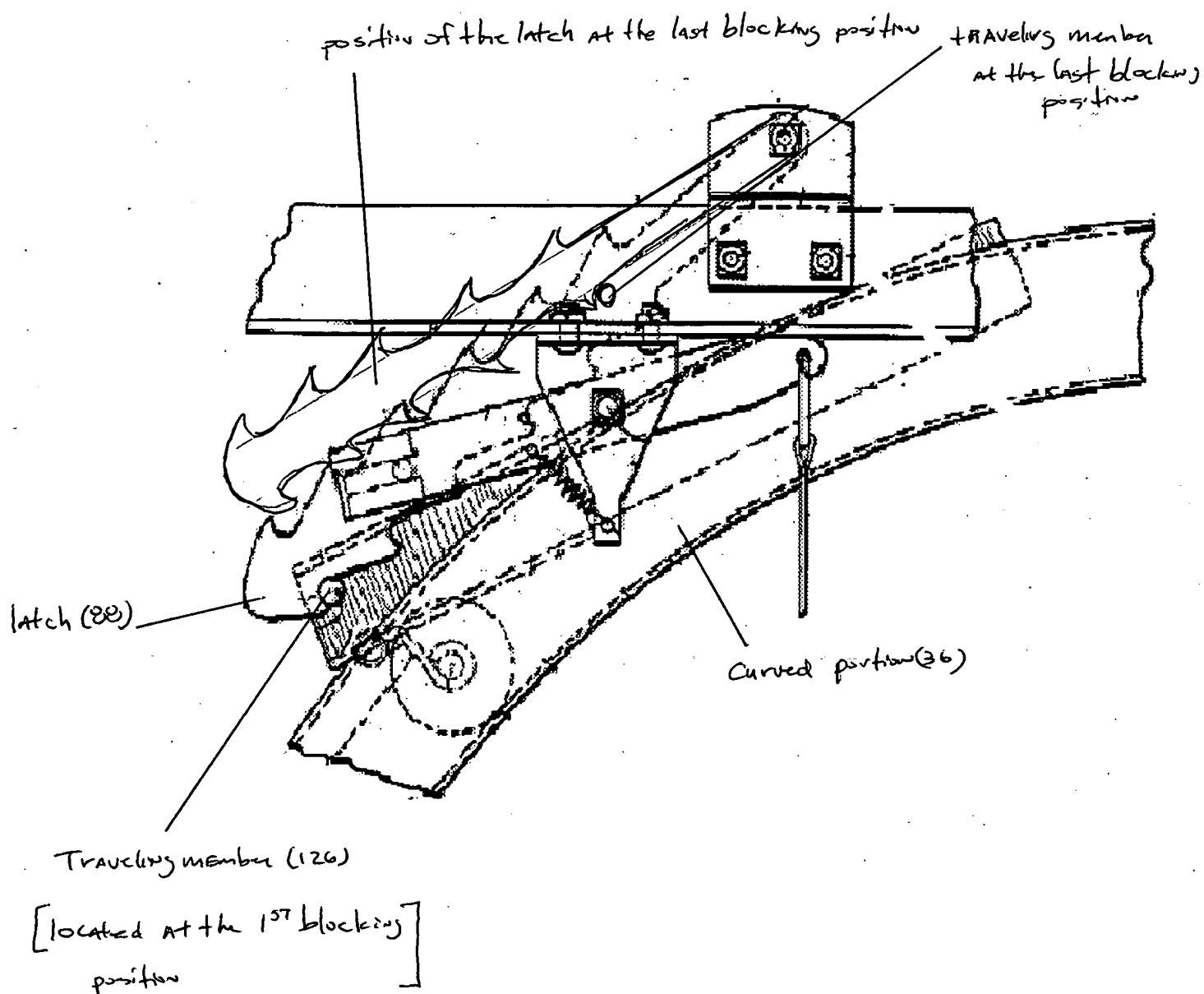
December 14, 2005.



BRIAN E. GLESSNER
SUPERVISORY PATENT EXAMINER



Attachment #1



Attachment #2